

**MINUTES
PLANNING COMMISSION
116 WEST NEEDLES
BIXBY, OKLAHOMA
August 19, 2013 6:00 PM**

In accordance with the Oklahoma Open Meeting Act, Title 25 O.S. Section 311, the agenda for this meeting was posted on the bulletin board in the lobby of City Hall, 116 W. Needles Ave., Bixby, Oklahoma on the date and time as posted thereon, a copy of which is on file and available for public inspection, which date and time was at least twenty-four (24) hours prior to the meeting, excluding Saturdays and Sundays and holidays legally declared by the State of Oklahoma.

STAFF PRESENT:

Erik Enyart, AICP, City Planner
Patrick Boulden, Esq., City Attorney

OTHERS ATTENDING:

See attached Sign-In Sheet

CALL TO ORDER:

Chair Thomas Holland called the meeting to order at 6:04 PM.

(The doors were propped open to the City Hall lobby, to allow additional people to participate in the meeting, as the Council Meeting Room was otherwise standing-room-only).

Chair Thomas Holland asked that, due to crowding, speakers limit their statements to approximately three (3) minutes each, and if someone had already stated something similar, keep them focused to something else or at least shorten them as to what was already said.

ROLL CALL:

Members Present: Larry Whiteley, Lance Whisman, Jeff Baldwin, John Benjamin, and Thomas Holland.

Members Absent: None.

Erik Enyart clarified for the Commissioners that the document provided to them prior to the meeting was a copy of the Technical Advisory Committee meeting Minutes, which had not made it into the original agenda packet as mailed. Mr. Enyart had also provided them copies of a protest letter pertaining to Agenda Item #s 2, 3, and 4.

CONSENT AGENDA:

1. Approval of Minutes for the July 15, 2013 Regular Meeting
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Chair Thomas Holland introduced the Consent Agenda item and asked to entertain a Motion. John Benjamin made a MOTION to APPROVE the Minutes of the July 15, 2013 Regular Meeting as presented by Staff. Larry Whiteley SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Benjamin, Whisman, and Whiteley
NAY: None.
ABSTAIN: Baldwin.
MOTION CARRIED: 4:0:1

During the Roll Call, Jeff Baldwin explained he was Abstaining because he was not present at that meeting.

Larry Whiteley made a MOTION to take the agenda items out of order and move Agenda Item # 5 forward to be considered at this time. Lance Whisman SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Benjamin, Baldwin, Whisman, and Whiteley
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

OTHER BUSINESS

5. **BSP 2013-04 – “Crosscreek Lot 5, Block 1, Tracts 3 & 4, 12810 & 12812 S. Memorial Dr., Suites 300-309” – JR Donelson, Inc. (PUD 37).** Discussion and consideration of a PUD Detailed Site Plan and building plans for “Crosscreek Lot 5, Block 1, Tracts 3 & 4, 12810 & 12812 S. Memorial Dr., Suites 300-309” a trade center development for part of Lot 5, Block 1, *Crosscreek*.
Property located: 12810 and 12812 S. Memorial Dr.
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Chair Thomas Holland introduced the item asked Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: Bixby Planning Commission
From: Erik Enyart, AICP, City Planner
Date: Thursday, August 15, 2013
RE: Report and Recommendations for:
BSP 2013-04 – “Crosscreek Lot 5, Block 1, Tracts 3 & 4, 12810 & 12812 S. Memorial Dr., Suites 300-309” – JR Donelson, Inc. (PUD 37)

LOCATION: – 12810 and 12812 S. Memorial Dr. Suites 300 : 309 (each)
– Northeast of the north dead-end of 73rd E. Ave. north of 129th St. S.
– Tracts 3 and 4 (per BL-377) of Lot 5, Block 1, Crosscreek
SIZE: 3 acres, more or less, in two (2) tracts
EXISTING ZONING: CS Commercial Shopping Center District + PUD 37
EXISTING USE: Multitenant “trade center” buildings
DEVELOPMENT Approval of Detailed Site Plan including as elements: (1) Detailed Site

TYPE: Plan, (2) Detailed Landscape Plan, and (3) Detailed Lighting Plan, (4) Detailed Sign Plan, and (5) building plans and profile view / elevations for new trade center buildings

SURROUNDING ZONING AND LAND USE:

North: AG, CG/PUD 76, & RM-2/PUD 70; The Fry Creek Ditch channel, with agricultural land to the north of that zoned CG with PUD 76, and the Encore on Memorial apartment complex to the northeast zoned RM-2 with PUD 70.

South: RS-1, RS-2, & RMH; The Bixby United Pentecostal Church and residences and vacant residential lots in Poe Acreage and unplatted residential areas fronting along E. 129th St. S., a mobile home park, and manufactured home residential in LaCasa Movil Estates and LaCasa Movil Estates 2nd to the southwest.

East: CS + PUD 37; Trade center metal buildings in Crosscreek.

West: AG & RMH; Former baseball practice fields, the Fry Creek Ditch channel, with manufactured home residential in LaCasa Movil Estates and LaCasa Movil Estates 2nd to the southwest zoned RMH.

COMPREHENSIVE PLAN: Corridor

PREVIOUS/RELATED CASES: (Not necessarily a complete list)

PUD 37 – Crosscreek – Randall Pickard for Remy Co., Inc. – Request for rezoning from AG to CS and PUD 37 for Crosscreek – Recommended for Approval by PC 03/21/2005 and Approved by City Council April 11, 2005 (Ord. # 980 – number assigned to the approved blank ordinance in the year 2007 after discovery of the discrepancy).

Preliminary Plat of Crosscreek – Request for Preliminary Plat approval for Crosscreek – Recommended for Approval by PC 06/20/2005 and Approved by City Council 06/25/2005.

Final Plat of Crosscreek – Request for Final Plat approval for Crosscreek – Recommended for Approval by PC 11/21/2005 and Approved by City Council 11/28/2005.

AC-06-04-01 – Request for Architectural Committee [Site Plan and building plans] approval for Phase 1, consisting of buildings 1 through 5, inclusive, of Crosscreek – Believed to have been approved by AC April 17, 2006 (Minutes not found in case file).

BBOA-453 – Dennis Larson – Request for Special Exception to allow a Use Unit 17 indoors sales of used automobiles in the CS district with PUD 37 for Crosscreek, and specifically, 12804 S. Memorial Dr. Unit # 109 – Approved by BOA 05/07/2007 on the condition that sales be indoors with no storage of automobiles outside of the building.

BBOA-487 – Keith Whitehouse for Cross Creek Office Warehouses, LLC – Request for Special Exception to allow a Use Unit 17 internet-based/indoor used automobile sales in the CS district with PUD 37 for Lot 2, Block 1, Crosscreek, and specifically, 12818 S. Memorial Dr. Unit # 111 – Approved by BOA 08/04/2008.

BBOA-494 – David Owens for Cross Creek Office Warehouses, LLC – Request for Special Exception to allow a Use Unit 17 indoor lawnmower and small engine repair business in the CS district with PUD 37 for Lot 3, Block 1, Crosscreek, and specifically, 12806 S. Memorial Dr. Unit # 115 – Withdrawn by Applicant in October/November 2008.

BBOA-498 – Cross Creek Office Warehouses, LLC and/or Remy Enterprises – Request for Special Exception to allow a Use Unit 19 indoor gymnasium, health club, baseball and basketball practice and training, enclosed commercial recreation establishments not elsewhere classified, and other such related uses within Use Unit 19, in the CS Commercial Shopping Center District with PUD 37 – Approved by BOA 03/02/2009.

PUD 37 – Crosscreek – Minor Amendment # 1 – Request for Minor Amendments to PUD 37 for Crosscreek – PC recommended Denial 05/18/2009 and City Council Approved on appeal 05/26/2009.

BL-377 – JR Donelson, Inc. for Remy Enterprises – Request for Lot-Split approval for Lot 5, Block 1 (including subject property) into “Tracts 1 through 4, inclusive” – PC Conditionally Approved 02/22/2011.

PUD 37 – Crosscreek – Minor Amendment # 2 – Request for Minor Amendments to PUD 37 for Crosscreek – PC Conditionally Approved 05/16/2011.

BSP 2011-02 – “Crosscreek Lot 5, Block 1, Tracts 1 & 2” – JR Donelson, Inc. – Request for PUD Detailed Site Plan approval for Crosscreek Lot 5, Block 1, Tracts 1 & 2 – PC Conditionally Approved 05/16/2011.

BLPAC-7 – JR Donelson, Inc. for Remy Enterprises – Request for Landscape Plan Alternative Compliance plan for Crosscreek Lot 5, Block 1, Tracts 1 & 2 – PC Conditionally Approved 05/16/2011.

BSP 2011-03 – “Crosscreek Lot 5, Block 1, Tracts 3 & 4” – JR Donelson, Inc. – Request for PUD Detailed Site Plan approval for Crosscreek Lot 5, Block 1, Tracts 1 & 2, for buildings 12810 S. Memorial Dr. Suites 200 : 209 and 12812 S. Memorial Dr. Suites 200 : 209 – PC Conditionally Approved 11/21/2011.

BACKGROUND INFORMATION:

The Crosscreek development essentially consists of a series of metal trade center / warehouse buildings extending approximately ½ mile along the south side of the Fry Ditch No. 1 channel, oriented lengthwise along the channel (east-west). The exception is the front building (“Building 1”), which is oriented lengthwise along Memorial Dr., and has had appearance upgrades and is primarily used for retail sales. The metal warehouse buildings are consistent with those typical of warehousing and trades and services general business offices (Use Unit 15, etc.). It should be noted that Use Unit 23 Warehousing is not permitted in the CS district or per PUD 37. This has continually caused interpretative and occupancy permitting issues for Crosscreek.

In May of 2011, on “Tracts 1 & 2” (per BL-377) of Lot 5, Block 1, Crosscreek, the Applicant was granted approvals to construct two (2) new metal trade center buildings, similar to those existing in the rest of Crosscreek, but smaller, as they will be built on the smaller lots. These were addressed 12810 and 12812 S. Memorial Dr. Suites 100:109.

Per BSP 2011-03 on November 21, 2011, the Applicant was approved to construct an additional two (2) new metal trade center buildings on “Tracts 3 and 4” of Lot 5, Block 1, Crosscreek. These were addressed 12810 S. Memorial Dr. Suites 200 : 209 and 12812 S. Memorial Dr. Suites 200 : 209. They were issued a Building Permit in late 2011. They did not occupy all of “Tracts 3 and 4,” and the Applicant indicated at the time that another two (2) smaller buildings may be constructed in the future on the vacant balance of land.

In or around July of 2012, Staff was presented with a Building Permit for these last two (2) buildings, and mistook them for the ones that had been approved, as indicated by the fact that Staff “tagged” the Building Permits with the case number from the previous two (2) (BSP 2011-03). Thus, even though not approved for Detailed Site Plan (DSP) as required by PUD 37, the permits were signed, the buildings and site improvements have been constructed and they have been issued temporary Certificates of Occupancy, subject to the satisfaction of the DSP approval requirement.

ANALYSIS:

Property Conditions. The subject property consists of vacant Tracts 3 and 4 (per BL-377) of Lot 5, Block 1 in Crosscreek, zoned CS + PUD 37. The two (2) tracts together contain approximately three (3) acres and drain north to the Fry Creek Ditch # 1.

Comprehensive Plan. The Comprehensive Plan designates the subject property as Corridor.

The trade center development anticipated by this Detailed Site Plan would be consistent with the Comprehensive Plan.

General. The Applicant is proposing to build the last two (2) 125’ X 80’ (10,000 square feet) buildings, one (1) on each tract. The buildings are located on the west ends of each tract and are surrounded with concrete paving, with unpaved 10’ X 80’ (or larger) landscaped strips on the east building ends and wider ones on the west building ends.

Fire Marshal’s and City Engineer’s memos are attached to this Staff Report (if received). Their comments are incorporated herein by reference and should be made conditions of approval where not satisfied at the time of approval.

The subject property appears to presently be served by the critical utilities (water, sewer, electric, etc.).

The Technical Advisory Committee (TAC) reviewed this Detailed Site Plan on August 07, 2013. The Minutes of the meeting are attached to this report.

The subject property lot conforms to the CS district and PUD 37, and the proposed building appears to comply with the height, maximum FAR, and minimum building setback standards for the CS district and PUD 37.

Access and Internal Circulation. The Tracts 3 and 4 of Lot 5 subject property currently has no frontage on a public street. The PUD 37 Development Standards for Development Area “Lot 5” provide that there is no minimum frontage requirement. Access is afforded via a private roadway within a 30’-wide Mutual

Access Easement, which runs through the development (via the plat of Crosscreek and a separate instrument easement, Document # 2011042634) on an east-west axis and connects the east line of the subject property to the west line of Lot 1. The driveway connection to Memorial Dr. is located at the southeast corner of Lot 1. Lot 5 also accesses S. 73rd E. Ave. via an unnamed, curved roadway constructed by the Crosscreek developer on land owned by the City of Bixby (part of the Fry Creek channel right-of-way). After some effort searching, Staff has not located any easement which would support this roadway. Perhaps it was understood that, if constructed on City property, it would be a de facto public street. It was not included in or dedicated by the plat of Crosscreek.

The roadway to the west connects to the rest of the Crosscreek development via a roadway that passes north-south through the northwest corner of Lot 5, and east-west along the north side of Lot 5.

In addition, Crosscreek Deed of Dedication Section 2.6.a provides what may amount to a blanket easement over all the lots in Crosscreek, "...The Owner/Developer hereby grants and establishes a perpetual, non-exclusive mutual access easement for purposes of permitting vehicular and pedestrian passage to and from all lots in the planned unit development across all drives and parking lots as shall exist on the lots." The section continues with "A mutual access easement shall be recorded in the office of the Tulsa County Clerk by the Owner/Developer." Such an easement was recorded May 18, 2011, Document # 2011042634. The former easement establishment language, located in the PUD Restrictions section of the DoD/RCs, appears to have been added after the PUD was approved, as it was not found in the PUD language itself. It may have been added in satisfaction of the latter statement, along with the specifically-defined MAEs as represented on the face of the plat.

A concrete trail was constructed along and just north of the north line of Lot 5 when other buildings were constructed in Crosscreek. It is located on the Fry Creek Channel land owned by the City of Bixby, and is planned to eventually connect to other trails.

The plans show paving internal drives over the 17.5' Perimeter Utility Easement along the north side of Tract 3 and the south side of Tract 4. Paving over public utility easements is subject to City Engineer and Public Works Director approval.

Parking and Loading Standards. The "Site Plan" drawing indicates the location of parking areas. Each building would have 12 parking spaces, six (6) on each of the north and south sides thereof. PUD 37 Minor Amendment # 2 provides that each building must have [a minimum of] 10 parking spaces, and 12 are proposed in satisfaction of this standard. If the maximum parking space standard of the Zoning Code applies, the 12 parking spaces would be in compliance.

The proposed handicapped-accessible parking spaces, regular and van-accessible, are provided in numbers and dimensions as required by both ADA and Bixby Zoning Code standards (see Figure 3 in Section 11-10-4.C). Access aisles, accessible routes to the entrances, signage to be used to reserve the accessible spaces, and a handicapped-accessible parking space/access aisle/accessible route detail diagram are all indicated as required.

The parking lot complies with the 10' minimum setback from an R Residential district per Zoning Code Section 11-10-3.B Table 1.

Presuming primarily Use Unit 15 occupancies, per Zoning Code Section 11-9-15.D, one (1) loading bay / berth is required and several are provided for each building. The loading berths would comply with the number which would be required and the 25' setback from an R Residential district per Zoning Code Section 11-10-3.B Table 1. They also comply with the 1 loading berth per 5,000 square feet standard of PUD 37 as modified by Minor Amendment # 2. The dimensions are represented and are consistent with the dimensional standards as per PUD 37 Minor Amendment # 2.

Screening/Fencing. The Zoning Code requires a sight-proof screening fence for the subject property along the south property line, as it abuts an RS-1 Residential district.

PUD 37 requires for screening, "Appropriate screening shall be provided between the development areas and the residential areas to the south. All landscaping and screening shall be approved by the Bixby Planning Commission."

The "Site Plan" drawing indicates a "6' screening wall w/fence" along the south property line. A profile view / elevation diagram has been provided, representing the 6' cedar fence. This was found adequate for screening purposes in the similar cases BSP 2011-02 and BSP 2011-03 (reference Zoning Code Sections 11-71-6, 11-8-10.E, and 11-12-3.A.3) and so should be found adequate in this case.

PUD 37 provides also, "There shall be no storage of recyclable materials, trash or similar material outside a screened receptacle. All trash, mechanical and equipment areas, including building mounted, shall be screened from public view in such a manner that the areas cannot be seen from persons standing

at ground level.” A note on the plan states that these buildings will utilize an existing dumpster located on Lot 4, and the same is represented at the southwest corner of Lot 4.

Landscape Plan. The Landscape Plan is compared to the landscaping standards of the Zoning Code as follows:

1. 15% Street Yard Minimum Landscaped Area Standards (Section 11-12-3.A.1): Standard is not less than 15% of Street Yard area shall be landscaped. There is no street frontage and so no Street Yard for the subject property. **This standard is not applicable.**
2. Minimum Width Landscaped Area Strip Standards (Section 11-12-3.A.2 and 11-12-3.A.7): There is no street frontage and so no landscaped strip requirement for the subject property. **This standard is not applicable.**
3. 10' Buffer Strip Standard (Section 11-12-3.A.3): Standard requires a minimum 10' landscaped strip between a parking area and an R Residential Zoning District. Tree planting requirements are the same as for a Street Yard. There is 10' grass strip proposed along the south line, which would separate the parking lot from the RS-1 district abutting to the south, in which 12 trees are proposed. Standard will be met upon and as a part of compliance with the landscaping requirements for the South Setback Area per Section 11-12-3.A.4.
4. Building Line Setback Tree Requirements (Section 11-12-3.A.4): Standard is one (1) tree per 1,000 square feet of building line setback area. Per PUD 37, there is a 10' setback “from all boundaries,” “Plus 2 feet for each one 1 foot building height exceeds 15 feet if the abutting property is within a Residential Zoning District.” There is an RS-1 district abutting to the south, and the building will be 19 1/3' in height. Therefore, the south line setback is 18 2/3'. Tree requirement calculations are as follows:

West line of Tracts 3 + 4 @ 361.81' X 10' = 3,618.1 square feet / 1,000 = 4 trees. No (0) trees proposed in West Line Setback Area. **This standard is not met for this Setback Area.**

North line of Tract 3 @ 404.55' – 10' from West Line Setback = 394.55' X 10' = 3,945.5 square feet / 1,000 = 4 trees. 12 trees proposed in North Line Setback Area. **This standard is met for this Setback Area.**

South Line of Tract 4 @ 407' – 10' from West Line Setback = 397' X 18 2/3' = 7,410.33 square feet / 1,000 = 8 trees. 12 trees proposed in South Line Setback Area. **This standard is met for this Setback Area.**

The east lines of Tracts 3 and 4 are not counted as they are interior to the “Lot 5” Development Area.

Thus, 3.6181 + 3.9455 + 7.41033 + 4.8 (1/10 parking spaces) = 19.77393 = 20 trees required for the entire site. 32 are proposed for the entire site. Although the total count is exceeded, due to the west line setback area, **this standard is not met.**

5. Maximum Distance Parking Space to Landscaped Area Standard (Sections 11-12-3.B.1 and 11-12-3.B.2): Standard is no parking space shall be located more than 50' from a Landscaped Area, which Landscaped Area must contain at least one (1) tree. At least one (1) of the centralmost parking spaces attending each building in the common area between the two buildings appears to not meet this standard. **This standard is not met.**
6. Street Yard Tree Requirements (Section 11-12-3.C.1.a): Standard is one (1) tree per 1,000 square feet of street yard. There is no street frontage and so no Street Yard for the subject property. **This standard is not applicable.**
7. Tree to Parking Space Ratio Standard (Section 11-12-3.C.2): Standard is one (1) tree per 10 parking spaces. A total of 24 parking spaces is proposed, which would require two 2.4 trees. There are another 24 parking spaces represented for the two (2) buildings with Suite # 200 : 209. Therefore, 4.8 trees are required for the Tracts 3 and 4. A total of eight (8) crepe myrtle trees are proposed in the landscaped areas “bookending” all four (4) buildings. **This standard is met.**
8. Parking Areas within 25' of Right-of-Way (Section 11-12-3.C.5.a): There are no parking areas proposed within 25' of the right-of-way. **This standard is not applicable.**

9. Irrigation Standards (Section 11-12-3.D.2): The Landscape Plan represents "FPHB" ("Frost Proof Hose Bibs" per Note # 7) on the east and west ends of the two (2) proposed buildings. Also represented are radii from each FPHB showing landscaping areas that are within 100' of each. As indicated, however, the FPHB will not reach all of the landscaped areas on the north side of Tract 3 or the south side of Tract 4. Per BSP 2011-03, however, the Planning Commission allowed a minor exception to the 100' radius rule, based on the plan to use hose extensions and replace any trees that may die due to lack of watering. **This standard is not met.**
10. Miscellaneous Standards (Section 11-12-3.D, etc.): The reported calipers of the proposed trees, tree planting detail, and other information indicates compliance with other miscellaneous standards. **This standard is met.**
11. Lot Percentage Landscape Standard (Section 11-7I-5.F; PUDs only): Standard is 10% of a commercial lot must be landscaped open space. The Landscaping Data summary table indicates 17.3% of each lot will be "landscape area," suggesting compliance is achieved. However, areas outside the 100' radii of the hose bibs should not be counted toward the 17.3%, and should be calculated by the Applicant to confirm the 10% standard is met. **Compliance with this standard cannot be determined.**

The second numbered item under the "Landscaping" section of the PUD 37 text (Page 7) provides,

"(2) All landscaping and screening shall meet or exceed the requirements of the PUD Chapter (Chapter 9), the Landscape Chapter (Chapter 17), and the Corridor Appearance District Chapter (Chapter 19), or an alternative plan may be approved by the Bixby Planning Commission if they determine that, although not meeting the technical requirements of the foregoing chapters, the plan is equivalent to or better than the requirements of the Landscape Chapter and the Corridor Appearance District Chapter and also meets the requirements of the PUD Chapter. Appropriate screening shall be provided between the development areas and the residential areas to the south. All landscaping and screening shall be approved by the Bixby Planning Commission."

Thus, the Planning Commission has the authority to approve an alternative plan for compliance within the context of this Detailed Site Plan application.

The Applicant should provide additional information showing, to the Planning Commission's satisfaction, how the above items which are not consistent with the minimum landscaping standards can still achieve the purposes and intent of the standards by alternative means. The irrigation flexibility, to allow the use of 'hose extensions,' would be consistent with the Commission's approval of the previous two (2) buildings in 2011.

Exterior Materials and Colors. Profile View / Building Elevations diagrams are represented on the "Elevations" drawing, and indicate the proposed exterior materials and general architectural appearance for the proposed buildings.

The development proposes metal buildings with "pre-finished metal siding." The roof is planned to be a "pre-finished metal roof" and will slope down to the north and south with a 1/12 pitch. The buildings and roofs are anticipated to look the same as or similar to the ones used in the existing part of Crosscreek, only smaller in size.

Note #6 on the "Site Plan" drawing provides, "The buildings are metal. The color is cream with blue trim."

Although part of Crosscreek is in the Corridor Appearance District, the subject property is beyond the district, and the buildings were granted Building Permits in 2012, and so the buildings are not subject to the masonry requirements instituted in January of 2013.

Outdoor Lighting. PUD 37 Development Standards provides the following for lighting:

"Lighting used to illuminate the development area shall be so arranged as to shield and direct the light away from adjacent residential areas. Shielding of such light shall be designed so as to prevent the light-producing element or reflector of the light fixture from being visible to a person standing in the adjacent residential areas or residential street right-of-way. No light standard or building-mounted light shall exceed 20 feet in height or the height which complies with the standard stated in the preceding sentence, whichever is lower."

The "Elevations" profile view/elevations drawing indicates the proposed locations of the wall-mounted lights on the north and south sides of both buildings.

There is a residential area south of the subject property, creating the possibility of artificial lighting encroachment on these adjoining residences. To the southeast is the Bixby United Pentecostal Church at

7418 E. 129th St. S. The nearest residences appear to be approximately 300' to 400' from the nearest corners of the southernmost building.

The Applicant has submitted a lighting plan indicating diminished lighting within or otherwise toward the south property line. The plan was prepared by Tom Rorabaugh of Vision Lighting Sales, is dated July 14, 2011, and is the same plan which was used in satisfaction of the lighting-related Conditional of Approval for BSP 2011-02 and BSP 2011-03.

Note # 3 on the "Site Plan" drawing provides, "Lighting will be wall packs on exterior of the building. There will be no pole lights lighting will be Cooper LM10C, exterior wall pack cut off, with directional down lighting, mounted at 14'-0" "

The Applicant has submitted "cut sheets" showing the planned "Cooper Lighting - Lumark" wall-mounted lights to be used.

Signage. PUD 37 essentially requires all signage comply with the Zoning Code standards for the same, and be approved by the Planning Commission for a "detail sign plan." Note # 4 on the "Site Plan" drawing provides, "Signage will be on a tenant finish basis. Sign permits will be on an individual basis."

The "Site Plan" drawing indicates placard signs bearing the development name "Crosscreek" and building numbers, to be attached to the east sides of the buildings. They have been represented on the Profile View / Building Elevations drawings and comply with the standards for wall signs and so will be approved as a part of this Detailed Site Plan in satisfaction of the requirement for same per PUD 37.

Staff Recommendation. The Detailed Site Plan adequately demonstrates compliance with the Zoning Code and is in order for approval, subject to the following corrections, modifications, and Conditions of Approval:

1. Subject to compliance with all Fire Marshal and City Engineer recommendations and requirements.
2. It appears that parts of the 17.5' U/E will be paved. Paving over utility easements requires the specific approval of the City Engineer and Public Works Director.
3. Subject to the satisfaction of all landscape plan issues listed above.
4. Please submit complete, corrected copies of the Detailed Site Plan incorporating all of the corrections, modifications, and conditions of approval as follows: Two (2) full-size hard copies, one (1) 11" X 17" hard copy, and one (1) electronic copy (PDF preferred).

Chair Thomas Holland recognized JR Donelson of 12820 S. Memorial Dr. Unit # 100. Mr. Donelson stated that there were about "80 trees there" [throughout Crosscreek], the "trees [are] planted, irrigation [is] in place, buildings [are] occupied."

Chair Thomas Holland expressed concern over lack of screening and trees along the west line. Erik Enyart clarified that screening was not required along the west line, as that city-owned property was zoned AG, and the screening requirement is between commercial uses and R Residential zoning districts. Mr. Enyart confirmed that there were technically trees required to be planed along the westerly lines of both tracts, but he believed there was a [concrete] drive there, and stated that the total number of trees required were exceeded within the site, and the Commission had the flexibility within the PUD [Detailed Site Plan] to allow them to be moved around within the site. Mr. Holland stated that he was concerned that there was not adequate screening for the houses to the southwest, if there was nothing along the west line. Discussion ensued regarding the City-owned parcel abutting to the west. JR Donelson stated that he had leased that land from the City for a baseball practice field, and spent \$20,000 out of his own pocket clearing it, but had returned it to the City some years ago, and it was now not being maintained. Discussion ensued.

After further discussion, Chair Thomas Holland asked to entertain a Motion. Larry Whiteley made a MOTION to APPROVE BSP 2013-04 subject to the Staff recommendations. John Benjamin SECONDED the Motion.

Chair Thomas Holland expressed concern over the lights in relation to the residential neighborhood to the south, and asked if an amendment to the Motion/vote was needed.

Patrick Boulden in at 6:16 PM.

Lance Whisman clarified with Erik Enyart that he was satisfied with the lighting plan information received. Mr. Enyart stated that the lighting plan was the same as was submitted and approved for the last two (2) Detailed Site Plan, which showed the footcandles dropping off to zero (0) by the south property line, and that the nearest homes on the residential properties to the south were even further away on the south ends of those deep tracts. Mr. Enyart stated that he had not received any complaints on the lighting in Crosscreek so far.

Roll was called:

ROLL CALL:

AYE:	Holland, Whisman, Baldwin, Benjamin, and Whiteley
NAY:	None.
ABSTAIN:	None.
MOTION CARRIED:	5:0:0

PUBLIC HEARINGS

Chair Thomas Holland asked Erik Enyart how the items should be introduced. Mr. Enyart stated that all items were covered by the same Staff Report, and all were related and would do the same thing, turning residential properties into commercial ones, so he would recommend they all be introduced at one time, but the Commission could vote on them separately if it wanted to.

2. **BCPA-10 – JR Donelson for James Hargrove et al.** Public Hearing to receive Public review and comment, and Planning Commission recommendations regarding the adoption of a proposed amendment to the Comprehensive Plan of the City of Bixby, Oklahoma, from “Low Intensity + Residential Area” to “Medium Intensity” with no specific land use designation.

Property Located: All of the residential lots having frontage on the east side of Memorial Dr. between 111th Pl. S. and 117th St. S. in *Southwood* and *Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition*; the 11100-block to the 11600-block of S. Memorial Dr.

3. **PUD 79 – “Southwood on Memorial” – JR Donelson, Inc.** Public Hearing, discussion, and consideration of a rezoning request for approval of a Planned Unit Development (PUD) for approximately 17 acres (land area) consisting of Lot 10, Block 2, Lot 9, Block 3, all of Block 9, and Lots 10, 9, and the W/2 of Lot 8, Block 10, *Southwood*, and Lot 10, Block 3, *Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition*.

Property Located: All of the residential lots having frontage on the east side of Memorial Dr. between 111th Pl. S. and 117th St. S. in *Southwood* and *Resubdivision of Lots 10*

through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition; the 11100-block to the 11600-block of S. Memorial Dr.

4. **BZ-366 – James Hargrove et al.** Public Hearing, discussion, and consideration of a rezoning request from RE Residential Estate District to CS Commercial Shopping Center District for approximately 17 acres (land area) consisting of Lot 10, Block 2, Lot 9, Block 3, all of Block 9, and Lots 10, 9, and the W/2 of Lot 8, Block 10, *Southwood*, and Lot 10, Block 3, *Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition*.

Property Located: All of the residential lots having frontage on the east side of Memorial Dr. between 111th Pl. S. and 117th St. S. in *Southwood* and *Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition*; the 11100-block to the 11600-block of S. Memorial Dr.

Chair Thomas Holland introduced related items 2. (BCPA-10 – JR Donelson for James Hargrove et al.), 3. (PUD 79 – “Southwood on Memorial” – JR Donelson, Inc.), and 4. (BZ-366 – James Hargrove et al.) and asked Erik Enyart for the Staff Report and recommendation. Mr. Enyart summarized the Staff Report as follows:

To: *Bixby Planning Commission*
From: *Erik Enyart, AICP, City Planner*
Date: *Wednesday, August 14, 2013*
RE: *Report and Recommendations for:*
BCPA-10 – JR Donelson for James Hargrove et al.,
PUD 77 – “Southwood on Memorial” – JR Donelson, Inc., and
BZ-366 – James Hargrove et al.

LOCATION:

- *All of the residential lots having frontage on the east side of Memorial Dr. between 111th Pl. S. and 117th St. S. in Southwood and Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition*
- *Lot 10, Block 2, Lot 9, Block 3, all of Block 9, and Lots 10, 9, and the W/2 of Lot 8, Block 10, Southwood, and Lot 10, Block 3, Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition*
- *The 11100-block to the 11600-block of S. Memorial Dr.*

LOT SIZE: *Approximately 17 acres (land area)*

EXISTING ZONING: *RE Residential Estate District*

EXISTING USE: *Use Unit 6 single-family detached dwellings and some vacant lots*

REQUESTED ZONING: *CS Commercial Shopping Center District & PUD 79*

SUPPLEMENTAL ZONING: *Corridor Appearance District*

SURROUNDING ZONING AND LAND USE:

North: *CS & CG; Automobile repair and auto sales businesses, including Same Day Auto Repair, Midas, and Tune & Sons Auto Service, the Kum & Go gas station, the Auto Pride Car Wash aka Bixby Car Wash III carwash facility also zoned CG, the Primary Concepts Preschool & Child Development Center childcare facility, the Tej D. Lad, DDS, Inc., PC dental office, and the Kirkendall Design, LLC (and perhaps also Kirkendall Homes, LLC) business office, and an automobile sales business zoned CG at 8215 E. 111th Pl. S., and various “trade center” multitenant commercial buildings including the “Market Place” and/or “Market Pointe South” developments (name is not certain/not distinguishable from trade center on north side of 111th St. S.), all zoned CS (except as noted) and all located in the commercial Lot 11, Block 2, Southwood*

South: CG & RS-1; Businesses zoned CG including South Tulsa Roofing at 11643 S. Memorial Dr., the Bixby Small Animal Hospital at 8108 E. 117th St. S., and the Express Lane / Cars & Credit convenience store and used auto sales business (a former gas station) at 11725 S. Memorial Dr., and single-family residential zoned RS-1, all in Southern Memorial Acres.

East: RE; Single-family residential estate homes in Southwood.

West: (Across Memorial Dr.) CS, CG, OL, & RM-2/PUD 16; Commercial businesses in the “Bixby Commons” shopping center (includes anchors Lowe’s and Reasor’s) in Bixby Commons and Resubdivision of Lots 3 and 4 of Bixby Commons; the Citizens Security Bank, vacant commercial lots in The Links at Bixby zoned CS, the The Links at Bixby 9-hole golf course and apartment complex further west zoned RM-2 with PUD 16, the Enterprise Sod Store zoned CG, the Hardscape Materials business zoned CS and AG, and the South Manufacturing Company, Inc. industrial business and vacant land zoned CG to the southwest.

COMPREHENSIVE PLAN: Low Intensity + Residential Area (BCPA-10 requests [1] Medium Intensity and [2] removal of Residential Area specific land use designation)

PREVIOUS/RELATED CASES: (Not necessarily a complete list):

BL-158 - Robert L. Harris – Request for Lot-Split approval for clear title purposes after ODOT right-of-way acquisition for Memorial Dr. / US Hwy 64 widening for subject property Lot 9, Block 3, Southwood – PC Ratified 01/16/1991 Prior Approval given on 01/21/1991 per notes on the application form.

BZ-274 – Lawrence Simmons – Request for rezoning of subject property Lot 4, Block 9, Southwood from RE to CG – Recommended for Denial by PC 08/20/2001 and Denied by City Council upon appeal September 24, 2001.

BZ-275 – James Hargrove – Request for rezoning of subject property Lot 5, Block 9, Southwood from RE to CS or CG – Recommended for Denial by PC 08/20/2001 and Denied by City Council upon appeal September 24, 2001.

BZ-276 – John Mumey – Request for rezoning of subject property Lots 9 and 10, Block 10, Southwood from RE to CS – Recommended for Denial by PC 08/20/2001 and Denied by City Council upon appeal September 24, 2001.

BBOA-418 – Billy Ray Cooper – Request for “Special Exception” to exceed the 750 square foot maximum accessory building floor area in an RE District, to allow a 21’ X 41’ (861 square feet) accessory storage building on subject property Lot 10, Block 2, Southwood, 8115 E. 112th St. S. – BOA Approved 03/01/2004.

BZ-314 – John Mumey – Request for rezoning of subject property Lots 10, 9, and the W/2 of Lot 8, Block 10, Southwood from RE to CS – Recommended for Denial by PC 11/21/2005 and Withdrawn [by Applicant] 11/21/2005 per notes on the application form.

BZ-316 – John Mumey – Request for rezoning of subject property Lots 10, 9, and the W/2 of Lot 8, Block 10, Southwood from RE to CS and OL (front/west half to CS and back/east half to OL) – Continued from 04/17/2006 to 05/15/2006 and then Continued to 07/17/2006. Notes on the application form indicate that the PC recommended Denial 07/17/2005. However, Minutes of that meeting were not found in hard copy or electronic format. Notes on the August meeting agenda indicated the PC approved the Minutes of the June meeting, and not the July meeting, suggesting there may have been no July meeting. June Minutes do not reflect consideration of this application. No item was found in the City Council Minutes of 07/24/2006 or 08/14/2006, and so the matter is assumed withdrawn or not appealed to the City Council.

PUD 66 “Memorial Place” & BZ-340 – Tanner Consulting, LLC: Request for rezoning of subject property Lots 10, 9, and the W/2 of Lot 8, Block 10, Southwood from RE to CS, OL, and RS-3 zoning and PUD approval – Applicant Withdrew both applications prior to Planning Commission hearing on 02/17/2009.

RELEVANT AREA CASE HISTORY: (Not a complete list)

BACKGROUND INFORMATION:

History of the Applications. BZ-366 and PUD 79 are applications signed by all of the owners of the 11 parcels of land included in the subject property. BCPA-10 has been requested by JR Donelson on behalf of all of the owners of the subject property.

The Nature and Value of the Comprehensive Plan. Comprehensive Plans are the result of intensive study, broadly garnered and comprehensive information, professional analysis and coordination, public input,

and general consensus of the City's staff, Planning Commission, and City Council. They bring together all planning functions (e.g., housing, land use, transportation, physical environment, energy, infrastructure and community facilities, demographics, etc.), analyze and compare them all on the community-wide scale, relate them to specific geographical areas within the community (i.e. the Land Use Map), and consider all this with a long-range time perspective (e.g., 15-20 years into the future).

The Comprehensive Plan is a thorough, complete, and well researched policy document used to inform the Planning Commission, City Council, and the Public at large how land can best be developed and used (among other things), and so how rezoning applications should be accepted or rejected. Comprehensive Plans, when followed, prevent arbitrary, unreasonable, or capricious exercise of the legislative power resulting in haphazard or piecemeal rezonings (read: rezoning decisions legally indefensible in a court of law).

Comprehensive Plans can be highly prescriptive, prescribing specific land uses and land use intensities to specific parcels of land, or can be highly generalized, merely mapping out large swaths of land which may be suitable for certain intensities of development, and including a broad range of zoning districts which may be authorized therein. Bixby's Comprehensive Plan falls somewhere in between, specifically designating certain areas with specific land uses, and others more generally (e.g. the "Corridor" designation.).

Zoning Code Section 11-5-2 prohibits rezonings which would conflict with the Comprehensive Plan, and requires that such rezonings "must be processed along with a request to amend the land use map and a PUD in order to be accepted and considered." The Applicant has requested PUD 79 in support of BCPA-10 and the rezoning application.

Procedure for Comprehensive Plan Amendments. Certain passages in the Comprehensive Plan text (page 30, 55, etc.) suggest the anticipation of amendments to the Plan. However, the Comprehensive Plan does not provide, nor do State Statutes, a definite procedure or method for the City or property owners to request to amend the Comprehensive Plan. The City of Broken Arrow regularly (quarterly, etc.) considers applications to amend their Comprehensive Plan, for cases where a rezoning application would not be consistent with the Plan, but the plan amendment and rezoning application may be appropriate.

After receiving the first two (2) requests in mid-2008 (BCPA-1 and BCPA-2), Staff consulted the City of Broken Arrow to determine how that community goes about facilitating applications for Comprehensive Plan amendments, and followed the same method, which was supported by the Applicant's attorney in those cases, which was to advertise the public hearing in the same manner used for a rezoning application: By sign posting on the property, newspaper publication, and mailing a notice to all property owners within a 300' radius of the subject property. This method was used in the successful applications BCPA-3 and BCPA-4 in 2009, BCPA-5 and BCPA-6 in 2011, BCPA-7 and BCPA-8 in 2012, and BCPA-9 earlier in 2013, and all of these have been done in this amendment case as well.

ANALYSIS:

Subject Property Conditions. The subject property consists of 11 parcels of land, including Lot 10, Block 2, Lot 9, Block 3, all of Block 9 (includes Lots 1 through 5, inclusive), and Lots 10, 9, and the W/2 of Lot 8, Block 10, Southwood, and Lot 10, Block 3, Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition. A couple of right-of-way parcels have been acquired from certain subject property lots for Memorial Dr. widening and drainage purposes, and were included in the legal descriptions as advertised for the sake of clarity and as Zoning districts extend to the centerlines of adjacent right-of-way in any event, due to language providing for same in the Zoning Code. Together, these 11 private property tracts represent all of the residential lots having frontage on the east side of Memorial Dr. between 111th Pl. S. and 117th St. S. All the lots are zoned RE and each of them contains one (1) house, with the exception of Lots 10, 9, and the W/2 of Lot 8, Block 10, Southwood, which are vacant. Lot 10, Block 10, Southwood had a house on it, addressed 11601 S. Memorial Dr., until it was demolished in or around 2010.

Southwood was platted March 11, 1965, and contains a few areas replatted on April 15, 1965 as Resubdivision of Lots 10 through 15 Inclusive, Block 3 and Lots 4 through 6 inclusive, Block 5, Southwood Addition. The "Southwood" neighborhood also includes Amended Southwood Extended, platted on or around December 30, 1966 (Southwood Extended was platted June 10, 1966). Altogether, they occupy most of the north half of this Section of land. The "Southwood" neighborhood primarily consists of roughly 1-acre residential estate-sized lots.

The [subject property] lots are moderately sloped and drain in a southerly direction through an overland drainage ditch system, located primarily within the subject properties, that drains from the 111th

St. S. and Memorial Dr. intersection along the east side of Memorial Dr. until it crosses southeasterly through Lot 3, Block 9, Southwood, intersecting 82nd E. Ave. just north of 116th St. S. Part of the subject property within Block 10, Southwood contains a drainage easement, per information received with previous application PUD 66, through with the drainageway passes. The drainageway is an un-named upstream tributary of Fry Creek # 1. Perhaps due in part to its function as a drainageway, some of the mature trees within the subject property are exceptionally tall and large. Together with the exceptionally large lot residential estate lots in Southwood, they help create a unique visual entryway to Bixby via Memorial Dr. from the north.

Comprehensive Plan. The Comprehensive Plan designates all of the subject property as (1) Low Intensity and (2) Residential Area. BCPA-10 requests (1) to change the intensity to Medium Intensity and (2) to remove the Residential Area specific land use designation, to allow the subject property to be rezoned to CS and be redeveloped commercially.

[...]

Page 7, item numbered 1 of the Comprehensive Plan states:

“The Bixby Comprehensive Plan map depicts desired land uses, intensities and use and development patterns to the year 2020. Intensities depicted for undeveloped lands are intended to develop as shown. Land uses depicted for undeveloped lands are recommendations which may vary in accordance with the Intensities depicted for those lands.” (emphasis added)

This language is also found on page 30, item numbered 5.

This text introduces a test to the interpretation of the Comprehensive Plan Land Use Map, in addition to the Matrix: (1) If a parcel is within an area designated with a specific “Land Use” (other than “vacant, agricultural, rural residences, and open land,” which cannot be interpreted as permanently-planned land uses), and (2) if said parcel is undeveloped, the “Land Use” designation on the Map should be interpreted to “recommend” how the parcel should be zoned and developed. Therefore, the “Land Use” designation of the Comprehensive Plan Land Use Map should also inform/provide direction on how rezoning applications should be considered by the Planning Commission and City Council.

If approved to remove the Residential Area specific land use designation, BCPA-10 would not confer a new one.

Per the Matrix, PUDs (as a zoning district) are In Accordance or May Be Found In Accordance with all designations of the Comprehensive Plan Land Use Map, and thus PUD 79 would be In Accordance with the Comprehensive Plan as a zoning district.

General. Because the review methodology is similar, and all three (3) applications are essentially rezoning-related and propose to prepare the subject property for commercial redevelopment generally, this review will, for the most part, include all three (3) applications simultaneously, and not attempt to differentiate between the analyses pertaining to each of the different applications.

The submitted site plans for the redevelopment exhibit a suburban-style design. The plan indicates a series of what appear to be multitenant “strip center” shopping center buildings of various sizes and configurations corresponding to property lines, served by parking lots in front and internal drives connecting them. Per Applicant JR Donelson, there are no known plans for development at this time, nor known commercial developers interested in buying the subject properties or any one of them in particular. The applications only seek to change the zoning to commercial, to allow for future sale for commercial redevelopment.

The Fire Marshal’s, City Engineer’s, and City Attorney’s review correspondence are attached to this Staff Report (if received). Their comments are incorporated herein by reference and should be made conditions of approval where not satisfied at the time of approval.

The Technical Advisory Committee (TAC) discussed BCPA-10 and PUD 79 at its regular meeting held August 07, 2013. Minutes of that meeting are attached to this report.

Access. The proposed internal automobile traffic and pedestrian flow and circulation and parking can be inferred from the provided site plans.

The PUD proposes closing 114th St. S. between Memorial Dr. and 82nd E. Ave., and extending 115th St. S. from Memorial Dr. to 82nd E. Ave., creating a 4-way intersection at about the mid-mile mark, which would be conducive to future traffic light installation, as previously suggested by the City Engineer. Exhibits A and F represent a slightly different street alignment than Exhibits B and G; this is not explained. On either side of the proposed 115th St. S. extended, stormwater detention ponds are indicated, and another would be located on the W/2 of Lot 8, Block 10, Southwood.

Access to all commercial development sites would be via driveways connecting to 112th St. S., 115th St. S. extended, or 116th St. S., as no driveway connections are indicated directly onto Memorial Dr. This design element, and the likelihood of imposing Limits of No Access (LNA), are not mentioned in the PUD text, however. Also not mentioned in the PUD text, nor labeled on the site plans, are what appear to be rear-access drives serving the back sides of the commercial buildings from 82nd E. Ave. From a land use compatibility standpoint, commercial service access from residential streets should be avoided. If intended to be fire access lanes, they should be so designated and described, but a redesign could remove the need for having them connect to the residential street 82nd E. Ave.

Surrounding Zoning and Land Use Compatibility. Surrounding zoning patterns are primarily CS and CG for commercial properties fronting along Memorial Dr. to the north, west, and south, and RE and RS-1 for residential properties to the east and southeast.

To the north is the 10 2/3 acre "Commercial" Lot 11, Block 2, Southwood, platted March 11, 1965 and since subdivided by Lot-Splits into 17 tracts. Along with the perimeter arterial streets, this area is served by private streets 111th Pl. S. and 82nd E. Pl., together forming an "L" rotated 90 degrees counterclockwise. This area contains several Use Unit 17 automotive-related businesses, including Same Day Auto Repair, Midas, and Tune & Sons Auto Service, and an automobile sales business zoned CG at 8215 E. 111th Pl. S., several businesses along 111th St. S. including the Auto Pride Car Wash aka Bixby Car Wash III carwash facility also zoned CG, the Primary Concepts Preschool & Child Development Center childcare facility, the Tej D. Lad, DDS, Inc., PC dental office, and the Kirkendall Design, LLC (and perhaps also Kirkendall Homes, LLC) business office. Along 111th Pl. S. and 82nd E. Pl., and on 111th St. S. east of 82nd E. Pl. are various "trade center" multitenant commercial buildings including the "Market Place" and/or "Market Pointe South" developments (name is not certain/not distinguishable from trade center on north side of 111th St. S.) and some vacant lots. All of this area is zoned CS (except as noted) and is located in the commercial Lot 11, Block 2, Southwood. By its location, configuration, and actual use, it appears to have been specifically planned for commercial development when Southwood was platted, unlike the subject property.

South of the subject property are several businesses fronting on Memorial Dr. and zoned CG, including South Tulsa Roofing at 11643 S. Memorial Dr., the Bixby Small Animal Hospital at 8108 E. 117th St. S., and the Express Lane / Cars & Credit convenience store and used auto sales business (a former gas station) at 11725 S. Memorial Dr., all in Southern Memorial Acres. Like the subject property, these lots appear to have originally been designed for residential use, but the growing traffic volumes on Memorial Dr. since the February 08, 1965 platting of Southern Memorial Acres evidently destined the Memorial Dr.-frontaged lots to develop commercially. As best as can be inferred from case maps and a lack of a rezoning case corresponding to the area, the Memorial Dr.-frontaged lots in this subdivision and Southern Memorial Acres Extended appear to have been zoned CG with the original early-1970s Zoning ordinance.

To the west of the subject property (across Memorial Dr.), zoning is a mix of CS, CG, OL, and RM-2/PUD 16, and consists of commercial businesses in the "Bixby Commons" shopping center (includes anchors Lowe's and Reasor's) in Bixby Commons and Resubdivision of Lots 3 and 4 of Bixby Commons; the Citizens Security Bank, vacant commercial lots in The Links at Bixby zoned CS, the The Links at Bixby 9-hole golf course and apartment complex further west zoned RM-2 with PUD 16, the Enterprise Sod Store zoned CG, the Hardscape Materials business zoned CS and AG, and the South Manufacturing Company, Inc. industrial business and vacant land zoned CG to the southwest.

East of the subject property is single-family residential zoned RE in Southwood and Resubdivision[...] and single-family residential zoned RS-1 in Southern Memorial Acres to the south and southeast. Care must be applied when allowing the non-residential zoning and commercial land uses to abut residential zoning and land use.

With the exception of the subject property, the Comprehensive Plan designates all properties fronting on Memorial Dr. from 101st St. S. to 134th St. S., and then most of the other properties beyond to the south to 161st St. S., as either Medium Intensity or Corridor. It is clear to Staff that this was not an oversight, but rather an intentional reservation of existing zoning and land use patterns. Thus, the central question underlying BCPA-10 is whether or not conditions have changed in the area since the circa-2002 adoption of the latest major update to the Comprehensive Plan such that a change is warranted, or otherwise if the strength of the applications (BCPA-10, PUD 79, and BZ-366) are such that the intentional Low Intensity + Residential Area designations should be comprehensively reconsidered.

Staff recognizes that the Memorial Dr. corridor from 114th St. S. north to the Creek Turnpike has continued to develop commercially since 2002, especially at the 101st St. S. intersection. The Wal-Mart Supercenter and attendant shopping centers developed at the northwest corner of 111th St. S. and Memorial Dr. in Tulsa around 2005/2006. The “Bixby Commons” shopping center was platted in 2001, and was rezoned just prior, on 02/12/2001 per BZ-269 – The Desco Group. Staff notes that this 2001 rezoning and commercial shopping center development predated the circa-2002 adoption of the last major update to the Comprehensive Plan, and the other two (2) Bixby corners of the intersection were already developed commercially, so it cannot be argued that the City Council did not then know that the conditions were changing in the area, and would have designated the subject property differently than Low Intensity + Residential Area.

If approved, the CS district should have a buffer zoning district between it and the RE to the east and RS-1 to the south in Southern Memorial Acres, such as OL, and it should be of significant width, such as 50’. This would effectively designate the terminal eastward extent of the CS district, preventing further commercial encroachment into the neighborhood. The width should correspond to the proportionate land areas in the three (3) lots between 111th Pl. S. and 114th St. S., which should be restricted to lower intensity uses (such as office) per other recommendations in this report, but should not be less than 50’ in any case.

In Staff’s opinion, the site plans indicate a lack of meaningful effort to preserve significant areas of mature trees, or to incorporate the existing natural areas as a design characteristic. Rather than preserving the “daylighted” drainage channel, the plans call for replacing them with stormwater pipes conveying drainage to and between stormwater detention ponds. The PUD does not indicate there would be any effort to utilize onsite stormwater detention ponds as site design amenities. The landscape plan indicates approximately 29 “Existing Trees” along Memorial Dr. and 82nd E. Ave., some of which are represented within the existing right-of-way. It is not clear if these were actually field verified or if they are merely a general, conceptual representation. Otherwise, the site plans indicate design intent to maximize the area of lot development by paving parking lots and drives over almost all of the areas not required to meet minimum parking lot setbacks and landscaped strip standards of the Zoning Code. A note on the site and landscape plans states, “As many trees along South Memorial Drive to remain as possible.” Text under PUD Development Standards Section B.1.a provides, “An arborist will work with the landscape designer and developer to determine which mature existing trees along South Memorial Drive will remain during the construction and development process. Tr[ee]s in the existing road right of way will be trimmed to accentuate the building construction.” These general statements appear to be the extent of the effort invested in mature tree accounting, preservation, and design integration. These statements are too broad and general, and do not present measurable performance criteria. An exhibit attached to a protest petition received August 09, 2013 (attached to this report), appears to superimpose site plan geometries on an aerial photo, which may illustrate the extent to which existing trees and natural areas would be lost under such development conditions. Staff appreciates that natural areas are necessarily removed in the name of progress, but a superior-quality development proposal will attempt to maximize natural feature preservation and design integration, which enhances the value of the development, while making the development economically viable, rather than attempting to maximize the area of lot development at the expense of the natural areas. When attempting to impose a commercial retrofit at an existing, established residential neighborhood, a superior-quality development proposal should be considered mandatory.

The PUD and site plans indicate a relative lack of sensitivity to context in land use planning. While Block 9 of Southwood has a 50’-wide right-of-way for 82nd E. Ave. affording additional separation from residential areas to the east, and the three (3) lots in Block 10 (south side of 116th St. S.) have adequate lot area to create a meaningful buffer from existing residential areas to the south and east, the lots between 111th Pl. S. and 114th St. S. directly abut residential uses, and little to no effort appears to have been made to create adequate buffers between the commercial and residential uses. Per the Comprehensive Plan text and sounding Zoning and land use policy, the PUD should address this, and consider restricting to less intensive uses such as light office. Although the Block 10 lots are large enough to allow a better design, the site plans indicate commercial buildings backing up to houses on 117th St. S. in Southern Memorial Acres, with setbacks and buffering methods that may not be adequate.

As Staff expressed to the Applicant’s agent JR Donelson prior to application submittal and at the TAC meeting held August 07, 2013, Staff has concerns related to the mechanics behind how the proposed site improvements would be executed when any current lot owner can sell their singular lot to a commercial

developer, with the developer having an expectation that site development may be imminent, when in fact it depends on certain lot owners demolishing their houses, building the 115th St. S. extension, building stormwater detention ponds and related drainage improvements, and upgrading utilities. Staff asked Mr. Donelson to clarify this, but any changes that may have been made to the PUD Text still leave this issue unresolved. Mr. Donelson indicated this may be done in part by imposing a requirement that all of PUD 79 be platted at one time, which would be a step in the right direction. However, the plat could always include existing lot owners with new lot lines corresponding to existing ones, such as is reflected in Exhibit A, in which case the issue would remain unresolved. If approved, the PUD and any future plat would have to clearly declare that no Building Permit would be issued within the development until all site development improvements had been completed. Required improvements would appear to include the 115th St. S. extension, any other requirements pertaining to streets, the entire stormwater drainage and detention system, and utility upgrades, but screening fences/walls and new landscaping would appear to be deferrable until specific lot development. This declaration in the PUD and any future plat would help resolve the concern that a current lot owner and/or any prospective commercial developer might have an expectation of imminent development; they would, instead, understand that all development is contingent upon, and must wait until the satisfaction of PUD requirements.

The lots as reflected in Exhibit A are somewhat awkwardly configured, as they appear to correspond to existing lot lines, which do not produce the most efficient or attractive lot pattern conducive to commercial redevelopment. Three (3) buildings are represented as being built over two (2) lots apiece, which lots are primarily now under separate ownership, and the lots would likely otherwise be drawn differently if underlying ownership patterns were not present. If all of the owners traded fee simple ownership in their respective lots for an appraised proportionate equity share in a new corporation, and a leasehold estate corresponding to their existing lot lines until such time as that area was sold, such a corporation could then plat all the land as a unit, and lot lines could be arranged in a more rational manner responding to existing physical feature and logical development site geometries. Such an arrangement could provide for the establishment of an escrow account, into which certain proceeds from the sale of any new lot would be entered until adequate funds were available to complete all of the required site development improvements (streets, drainage, etc.). Platting before installing improvements would require, however, waiving City performance bonding and/or PFPI requirements.

The PUD Text proposes an eight (8)-foot-high brick fence along the easterly sides of the subject property, but the Conceptual Site Plan Exhibit B and the Landscape Plan Exhibit G both indicate a six (6)-foot-high brick fence. If approved, this needs to be reconciled. Staff notes that, even if the taller version of a brick fence, the same could be required anyway per Zoning Code Section 11-8-10.E.

PUD Development Standards Section B.1.c creates an ambiguity with the statement on Page 1, in whether Planning Commission approval of the landscape plan would be required. Also, the "Landscape/Green Area" percentages of Development Standards Section A cannot be reconciled with established interpretations of minimum landscape standards of the Zoning Code. If approved, they should be recognized as in addition to the minimum standards, not in lieu of any of them.

The 40' ground sign height standard proposed in Development Standards Section B.2.a may exceed the 25' maximum of Zoning Code Section 11-7I-4.B.2.d.

There are other issues with the PUD which would need to be resolved if approved. However, since the recommendation is not for approval, and as major substantive changes should be made if the Commission was in favor of the concept generally, Staff has withheld a comprehensive analysis at this time.

From time to time over the past six (6) years, Staff has been approached by various property owners and other interested parties about the possibility of converting specific lots within the subject property to commercial, and Staff has been very careful to give a highly-qualified response, as consistently as humanly possible, paraphrased as follows: 'Staff cannot give a prediction on the strength of some future application which has not yet been submitted, but can say that, if one wanted to move forward on such a change, converting any of these lots to commercial would be very difficult approaching impossible, due to the likelihood of massive protest from residents in the neighborhood. The only way such an application would have a "fighting chance" of being approved is (1) if it included every single residential lot owner between 111th Pl. S. and 117th St. S., so that it would be a comprehensive, well-planned connection of existing commercial zoning districts to the north and south, and so would avoid "spot-zoning," and (2) it would have to be accompanied by a high-quality PUD application that has extremely high standards for redevelopment, especially buffering, such as generous setbacks, a good-quality masonry wall, generous

landscaping, a “gateway” entrance installed designating the separation between the commercial development and the remaining “Southwood” residential neighborhood to the east, which gateway may take the form of high-quality archways integrated with the masonry wall, at all points of entry to the neighborhood, and the preservation of every single mature tree as possible.’ At present, these applications do not appear to measure up to expectations for application strength, as contemplated and consistently advised by Staff.

Zoning Code Section 11-7I-8.C requires PUDs be found to comply with the following prerequisites:

1. Whether the PUD is consistent with the comprehensive plan;
2. Whether the PUD harmonizes with the existing and expected development of surrounding areas;
3. Whether the PUD is a unified treatment of the development possibilities of the project site; and
4. Whether the PUD is consistent with the stated purposes and standards of this article.

Regarding the fourth item, the “standards” refer to the requirements for PUDs generally and, per Section 11-7I-2, the “purposes” include:

- A. Permit innovative land development while maintaining appropriate limitation on the character and intensity of use and assuring compatibility with adjoining and proximate properties;
- B. Permit flexibility within the development to best utilize the unique physical features of the particular site;
- C. Provide and preserve meaningful open space; and
- D. Achieve a continuity of function and design within the development.

Staff Recommendation. Staff has considered the applications in light of the questions listed immediately above and found them substantially lacking. They do not appear to harmonize with existing [land uses] of the surrounding area, or provide a unified treatment of the development possibilities of the project site, or represent an innovative plan, or maintain an appropriate limitation on the character and intensity of use vis-à-vis adjoining and proximate properties, or best utilize the unique physical features of the site, especially the natural features, or provide meaningful open space. However, if the Planning Commission is favorable to the applications or the general concept of changing the area to commercial, as suggested in the letter from the Southwood Neighborhood Association, it should Continue the applications to a date in the future, to allow for further revisions and meetings as may be required to enhance the quality of the applications such that they warrant a favorable recommendation to the City Council.

Erik Enyart noted that this subdivision was unique, with the exceptionally tall, mature trees, and that it was well-known to all those that drive down Memorial Dr. Mr. Enyart summarized the statement from the Staff Report on guidance he had given to inquiring property owners, as far as application quality in order for such application to have a “fighting chance” of being approved in this neighborhood. Mr. Enyart stated that, in his opinion, these applications did not measure up to such expectations for application quality. Mr. Enyart stated that, with the perspective and analysis he had provided in the Staff Report, and that of the Planning Commission, and with additional input provided by those in attendance, the Commission could make a well-informed recommendation to the City Council on the matter of whether the properties should be put to commercial use, which Council had the final authority on these questions.

Larry Whiteley asked JR Donelson what all the vehicles were doing on the Hargrove property, and indicated the property looked like it was being used as a [business] office. Mr. Donelson stated “I know what you’re talking about, but” he could not answer that question. Mr. Whiteley asked if there was an ordinance against that, and Patrick Boulden stated there was a nuisance ordinance, and indicated that it may be against the ordinance.

JR Donelson stated that there was no individual or business that had stepped forward to buy the property(ies), nor had any developer stepped forward. Mr. Donelson read from a prepared statement, reproduced here as follows:

“Southwood on Memorial

I represent the owners of the 11 properties, making up 11.53 acres, requesting the zoning change and PUD approval for the project named “Southwood on Memorial”. These property owners are unified in their belief that the best use of their property is “CS” - Commercial Shopping Center District.

The proposed PUD conceptual site plan is one scenario of how commercial and office buildings could be configured on the combined properties. I have met and received input from the City of Bixby staff, who have assisted in shaping this proposed project. The property owners have defined in the PUD uses for their properties .

Under the present zoning, there is not presently a individual or company who has made an offer for the properties.

Background:

1. When the Southwood Subdivision was platted and home construction began in the mid 1960’s, South Memorial Drive was a 2 lane asphalt road, connecting Bixby to Tulsa. The growth in South Tulsa and Bixby over the last 50 years has changed the landscape of South Memorial Drive from a rural two lane, 65 mph road to a four lane highway that carries over 26,000 cars every day.
2. This growth has taken Bixby from a town of 3,000 to a City of over 21,000 people. The north Bixby area has grown from Fergusons store at 131st and Memorial to over 300 businesses along Memorial from 101st Street South to the Arkansas River.
3. The city of Bixby’s own web site states, “The foundation of Bixby’s success is a progressive municipal government consistently focused on proactive growth and dedicated to bringing successful new business to Bixby.”
4. For Business opportunity the Bixby web site states, “Businesses grow where opportunities are, and opportunities abound in Bixby. The latest Opportunity Gap retail leakage study found half a billion dollars of opportunity in Bixby. With a retail leakage of \$473 million dollars for the Bixby Trade area, and there is a proven ready market for businesses.”

Zoning

1. The properties between 101st and 111th on the East side on Memorial Drive area presently zoned either “CG or CS”.

2. The properties on the west side of Memorial Drive from 111th to 121st are presently zoned either “CS, OL or CG” except for one small portion of North Heights which is zoned RS-1.
3. The properties on the east side of Memorial Drive from 111th to 121st are all zoned “CS or CG” except this portion of land, which we are bringing to you for consideration tonight.
4. The properties along Memorial Drive from 121st to 131st Street South on both sides of Memorial Drive are zoned either “CS, CG, OL or AG”, except for one small portion south of Grand Bank.
5. The properties on both sides of Memorial from 131st to the Arkansas River are zoned either, “CS, CG, AG or IL”, except for the Riverview Baptist church parcel of land.

This growth has seen the increase in property values over the last 50 years.

Property Values

1. Ravens Crossing, behind Wal-Mart, recent sales range from \$218,000 to \$238,000 for homes in the range of 1800 – 2000 sqft, on lots that are only 0.23 acres in size. Wal-mart has not affected their property values.
2. South Country Estates, situated east of the commercial properties at 106th and Memorial. Recent sales from \$144,000 to \$170,000 for homes in the range of 1900 sf to 2000 sft on lots that are 0.23 acres in size. The commercial/office property along Memorial has not affected their property values.
3. Woodcreek Village Amended, behind Lowes. Recent sales on 2200 sf – 2700 sf houses on 0.17 acres of land, range from \$195,000 to \$300,000.00. The presence of Lowes did not hinder Brumble/Dodson from constructing single family homes within a baseball’s throw from the backyards.
4. In Southwood the recent sales have been from \$144,000 to \$251,000 for houses in the 1800 to 2000 sf range, on lots that are 1.06 and greater. If Ravens Crossing, South Country Estates and Woodcreek Village Amended are any indication, then the value of the residential homes in Southwood will not decrease with the development of commercial properties along South Memorial Drive.

How will Southwood on Memorial affect the landscape of Bixby!

This parcel of land is the last significant parcel of land along South Memorial Drive that has not been zoned Commercial, Office or Industrial.

It is estimated that this parcel of land would allow for approximately 70,000 sf of new construction for retail and office use. This could provide for the creation or relocation of approximately 100 new businesses and over 200 new jobs in Bixby.

This commercial project is consistent zoning along South Memorial Drive and with the statement on the Bixby Web site, “Businesses grow where opportunities are, and opportunities abound in Bixby”.

Therefore the property owners request the Bixby Planning Commission approve their application for changing the comprehensive plan, rezoning to CS and PUD 79.”

JR Donelson stated that the neighborhood had looked at a [conceptual] schematic, since there were no actual plans for development. Mr. Donelson stated that the City Engineer had requested 114th St. S. be closed, and wanted pipes to be extended so that all drainage would go underground.

Chair Thomas Holland asked if the Commissioners had any questions at this time. The Commissioners deferred questions until after those who signed up to speak had spoken.

Chair Thomas Holland recognized Jim Davenport of 8123 E. 117th St. S. from the Sign-In Sheet. Mr. Davenport stated, "I ask that you reject all of it."

Chair Thomas Holland recognized Gerald Rodgers of 8126 E. 112th St. S. from the Sign-In Sheet. Mr. Rodgers stated that he had lived at that residence for 20 years. Mr. Rodgers stated that his house abutted one of the subject properties, and those across 82nd E. Ave., there would be no buffer between his property and [the proposed commercial properties]. Mr. Rodgers stated that he had seen commercial come down Memorial Dr. Mr. Rodgers expressed concern that approval would set a precedent, not only on Memorial Dr. but also along Mingo Rd. between 111th St. S. and 121st St. S. Mr. Rodgers expressed concern that there would be no setbacks between his property and the proposed commercial properties except a 17.5' [Utility Easement] and a 6' brick fence. Mr. Rodgers stated that [JR Donelson] said [the brick fence would be] 8' [in height], but the PUD said 6', with buildings up to 45' in height. Mr. Rodgers expressed concern for trash issues and "smelly" uses, "depending on the type of business." Mr. Rodgers stated that [he and his neighbors] could "smell what's for dinner at [the restaurant across Memorial Dr. from Southwood]." Mr. Rodgers expressed concern for "light infiltration" on the neighborhood, and stated that [the shopping center across Memorial Dr. from Southwood] had a lot of light, but it was buffered by the mature trees that are there now. Mr. Rodgers stated that the trees screen lighting and noise from the Memorial Dr. traffic, and if they were cut too much, it would create a nuisance. Mr. Rodgers stated that there was a drainage issue in the subdivision, and expressed concern that the wall [to be erected on the proposed adjoining commercial property] would cause water to back up in his yard until it could seep into the ground. Mr. Rodgers stated that this could cause mosquitoes and health hazards. Mr. Rodgers stated, "We ask that the current master plan be left alone." Mr. Rodgers stated that [he and his neighbors] had bought into the neighborhood because of [its unique characteristics]. Mr. Rodgers urged that the Comprehensive Plan be left alone "not only tonight but" [also henceforth]. Mr. Rodgers stated that this subdivision was an attraction to Bixby. Mr. Rodgers stated that the neighbors had lived there and paid taxes and revenues since 1965, and urged that the area be left alone. Mr. Rodgers expressed objection to living right next to commercial property, and asked, rhetorically, "Would you want to see [a big-box retail store] from your backdoor?"

Chair Thomas Holland recognized Odell Carpenter of 11415 S. 82nd E. Ave. from the Sign-In Sheet. Mr. Carpenter stated that [the proposed change] would affect his property because he would face a brick wall when he opened his front door. Mr. Carpenter stated that the neighborhood had large lots and beautiful trees, and that the proposed change to commercial could result in an unattractive shopping center. Mr. Carpenter stated that his house faced west. Mr. Carpenter stated that [the proposed change] would affect all the houses on 82nd E. Ave. that face west. Mr. Carpenter estimated that the change could devalue their properties "maybe \$10,000 to \$20,000." Mr. Carpenter stated that the only ones that wanted this want to make a profit [from the change].

Chair Thomas Holland recognized Karla Babcock of 8125 E. 112th St. S. from the Sign-In Sheet. Ms. Babcock stated that she had commercial behind her property “with a bit of a rickety fence.” Ms. Babcock stated that the owner next to her bought that property with the intent to change to commercial, and suggested a lack of maintenance. Ms. Babcock stated that the neighborhood had beautiful, mature trees, and said, “It’s a beautiful gateway.” Ms. Babcock stated that the trees were decades old, and stated that she wanted to see them stay and wanted “no commercial encroachment in our neighborhood.”

Chair Thomas Holland recognized Rick Horton of 8317 E. 117th St. S. from the Sign-In Sheet. Mr. Horton stated that his property backed up to what was formerly the “Mumey property.” Mr. Horton stated that his was the only [housing] addition [he and his family] wanted. Mr. Horton stated, “We looked at Broken Arrow, but this was the only one we wanted because of the trees.” Mr. Horton expressed concern for [stormwater] runoff. Mr. Horton stated that he had lost 26 trees when the City improved the drainage in the neighborhood, and it was an improvement, but indicated there was more work to be done for drainage. Mr. Horton expressed concern that the 17-acre [in land area] properties would cause additional stormwater runoff if developed into commercial with extensive concrete. Mr. Horton stated that Bixby was a “Tree City USA” community, and that it would not serve any purpose if the City allowed someone to bulldoze all the trees. Mr. Horton asked, rhetorically, “How many construction sites do you see where they actually leave the trees?”

Chair Thomas Holland recognized Tom Daniels of 8171 E. 114th St. S. from the Sign-In Sheet. Mr. Daniels stated that the Applicant had talked about closing off 114th St. S., and noted that he lived on that street. Mr. Daniels showed panoramic photograph of the Memorial Dr. frontage of the subject property, and stated that this exhibit would “show what we’re talking about.” Mr. Daniels stated, “As you can tell, our neighborhood is very much against this, and would very much like to see it denied.” Mr. Daniels stated that he had been a resident for more than 48 years, and would encourage [the Commissioners] to buy a house there, but they are very hard to find. Mr. Daniels stated that the City of Bixby had the responsibility to take care of existing neighborhoods. Mr. Daniels stated that JR Donelson indicated the new property owners would come up with new specifications for the redevelopment, and expressed concern over the commercial adjacency. Mr. Daniels expressed concern over 40’-high signs, bright lights, and more noise. Mr. Daniels stated that Bixby was blessed with a lot of available property zoned commercial, and suggested that commercial developers look to that instead. Mr. Daniels stated that turning the property from residential to commercial would be “a bad choice.”

Chair Thomas Holland recognized Don Schmidt of 8266 E. 114th St. S. from the Sign-In Sheet. Mr. Schmidt stated that he was the president of the Homeowners Association and stated, “We oppose as per the letter you received.” Mr. Schmidt expressed concern that the PUD would allow 45’-tall buildings, which could be metal or masonry, and 40’-tall signs, which would tower over the 6’-tall fence. Mr. Schmidt stated that [approval] would result in a decrease in property values. Mr. Schmidt stated that the Association had obtained legal counsel. Mr. Schmidt stated that [these applications] were incompatible with the City of Bixby’s Comprehensive Plan.

Chair Thomas Holland recognized JR Donelson of 12820 S. Memorial Dr. [#100] from the Sign-In Sheet. Mr. Donelson passed on this opportunity to speak, and indicated he would speak after the others had spoken.

Chair Thomas Holland recognized Jim Manley of 8322 E. 113th St. S. from the Sign-In Sheet. Mr. Manley stated that Southwood was a “Bixby trademark,” and that people in Tulsa, or wherever else, know Southwood, saying “That’s the area with the big trees.” Mr. Manley stated that he had heard that stated in the 100s, maybe 1000s of times. Mr. Manley stated that he had lived 37 years on 113th St. S. Mr. Manley stated, “We’re not affected by the change, but (referring to others in attendance) they are,” and indicated he was “fight[ing] for my neighbors.” Mr. Manley questioned the Donelsons’ connections to these applications, other than monetary.

Chair Thomas Holland stated that [these applications] were a job for [JR Donelson], and that he was working for that individual.

Jim Manley stated that he was not talking about money but about “our homes.” Directing his question to those in attendance, Mr. Manley asked how many lived [in the Southwood neighborhood]. A large majority raised indicated in the affirmative. Mr. Manley stated, “When you get there, you can’t leave.” Mr. Manley stated that there was a [neighborhood] sign on 114th St. S., and “We’re proud of that.” Mr. Manley stated that he would appreciate that the Planning Commission do what was right.

Chair Thomas Holland recognized Ronald E. Durbin II from the Sign-In Sheet. Mr. Durbin stated that he was an attorney representing the Southwood Homeowners Association. Mr. Durbin stated that he lived in Tulsa but considered Bixby a second home, and stated that he was a member of the Bixby Metro Chamber of Commerce. Mr. Durbin stated that he used to work for Moyers Martin, which used to be on Dawes [Ave.] but was now at 123rd St. S. and Memorial Dr. Mr. Durbin stated that this area should be preserved. Mr. Durbin stated that [approval of the applications] would essentially be a “taking,” as it would “take from everybody here and give [to the Applicants];” would “take part of the value of every home.” Mr. Durbin stated that there may be a way to resolve this. Mr. Durbin stated that the comparison to the houses behind *Wal-Mart* was not [a fair comparison], because this was not creating a new development behind existing commercial property. Mr. Durbin stated that this was talking about taking existing [residential use and converting it to commercial use], and “let it be what it is.” Mr. Durbin stated that the Applicant had stated that there was not a single commercial developer on board. Mr. Durbin stated that [approval] would “knock down a domino,” and spoke from the perspective of an Applicant, “if I can get one domino knocked down, then” [I can ask to make changes]. Mr. Durbin referenced the Applicant’s statement on traffic counts, and stated that it would increase congestion if changed to commercial. Mr. Durbin indicated that anyone that comes from Tulsa at 5:30 PM can relate to the traffic on Memorial Dr. Mr. Durbin stated that this proposal failed to preserve the long-term integrity [of the neighborhood]. Mr. Durbin stated that [JR Donelson] said he would restrict uses, but “a lot is missing here.” Mr. Durbin stated that the City of Tulsa was trying to get rid of its massage parlors and smoke shops, and indicated he did not see these exclusions listed. Mr. Durbin stated that there were “a multitude of others” that needed to be excluded. Mr. Durbin stated that this was a “premature proposal,” and that the Applicants had “nothing in hand but schematics” showing what “might possibly one day develop.” Mr. Durbin stated that “the best laid plans of mice and men don’t often come to fruition.” Mr. Durbin reiterated that this was a “premature proposal.” Mr. Durbin stated that this would change the essential character of the whole area, and would change it totally. Mr. Durbin described the proposal as an “encroachment.” Mr. Durbin stated that the master

plan for the City of Bixby should stand for a period of time, and asked why it should be changed. Mr. Durbin answered stating that 11 property owners wanted [commercial property values]. Mr. Durbin stated that they had bought their properties when it was zoned residential, and knew what they were getting into, and (gesturing to the audience) “all of them did too.” Mr. Durbin stated, “Don’t cater to the desires of the few to the detriment of 200 plus homes.” Mr. Durbin expressed concern for lighting, noted the legal principle of being “seized in land,” and urged that “these people [who are] seized in their homes [be allowed to] keep possession of what they have.”

Ronald E. Durbin II presented a posterboard containing the conceptual site plan superimposed on an aerial photograph as provided by the Homeowners Association and included in the agenda packet. Mr. Durbin asked the Planning Commission to recommend this proposal not be approved by the City Council.

Chair Thomas Holland recognized Lee Prall of 11702 S. 75th E. Ave. from the Sign-In Sheet. Mr. Prall stated that he served on the North Heights Homeowners Association. Mr. Prall referenced 92 acres [included in PUD 76] and indicated that he had tried to get commercial developed there. Mr. Prall expressed concern about noise, referencing rock bands playing loudly at a certain Bixby commercial venue, and the inadequacy of an 8’-high fence to stop the noise. Mr. Prall asked, rhetorically, “Do we want to have a car lot?” and answered his question, “We do not.” Mr. Prall expressed concern over drainage in the neighborhood and the necessity of having Corps of Engineers approval for same. Mr. Prall expressed concern for land use compatibility and flooding. Mr. Prall recommended that [someone should] “bring all these businesses to the 92 acres” [zoned PUD 76].

Chair Thomas Holland recognized Tom Wilsterman of 11134 S. 83rd E. Ave. from the Sign-In Sheet. Mr. Wilsterman stated that he had moved into the neighborhood 13 years ago. Mr. Wilsterman noted that there was a sign that said that Bixby was a “Tree City USA” [community]. Mr. Wilsterman stated that he would “like to see the commercial area not move into the neighborhood.” Mr. Wilsterman stated that, when the commercial property behind his house was being developed, the developer told him that he should not worry and that the project would be nice. Mr. Wilsterman stated that the development ended up being a metal building and he is woken up by trash trucks at 6:00 AM, and at some time between midnight and 1:00 AM, the delivery trucks drop a 55 gallon drum in the parking lot. Mr. Wilsterman stated that he needs no lights on the back of his house because it is so well lit [already]. Mr. Wilsterman stated that he knew before he signed on the line that the property behind his was commercial, but (gesturing to the audience) “these people don’t have that” [situation if the applications were to be approved]. Mr. Wilsterman stated that his son was seven (7) years old and could read the signs on the back of the commercial buildings, “advertising to my 7-year-old I guess.” Mr. Wilsterman expressed objection to the appearance of the metal buildings. Mr. Wilsterman asked that the Planning Commission be respectful of [our neighborhood], and not let commercial into the neighborhood.

Chair Thomas Holland recognized Jack Biersdorfer of 11202 S. 83rd E. Ave. from the Sign-In Sheet. Mr. Biersdorfer noted that the interested people were not present. Mr. Biersdorfer stated that the Comprehensive Plan, the master plan was important. Mr. Biersdorfer stated that he would prefer the City attract great businesses, not ice cream shops and fast food restaurants. Mr.

Biersdorfer stated that he wanted businesses like Utica Square, which would attract people in from Tulsa.

Lee Prall stated that Brian Guthrie would be the one to speak to about the 92 acres.

Chair Thomas Holland recognized Jeff Carter of 11430 S. 87th E. Ave. from the Sign-In Sheet. Mr. Carter stated that he had moved here in 2008 and was from England. Mr. Carter stated that he did not want to see a “concrete jungle” as he drove by. Mr. Carter noted that there was concern expressed earlier in the meeting regarding the landscaping in Crosscreek, and suggested that the landscape of the subject properties also be of concern to the Planning Commission. Mr. Carter expressed concern that there were 17 acres here that would be “destroyed.” Mr. Carter stated that there was a lot of land between 121st St. S. and 131st St. S. that was for sale.

Chair Thomas Holland recognized Matthew Francis of 11348 S. 83rd E. Ave. from the Sign-In Sheet. Mr. Francis stated that he had not lived here as long as previous speakers, and had lived here for only four (4) months. Mr. Francis stated, “What drew me to the area were the trees—[an] acre lot with a bunch of trees. It never crossed my mind” [that they might] “shave off the front of it. I ask that you reject this proposal.”

Chair Thomas Holland asked if there were any further comments or questions.

Chair Thomas Holland asked JR Donelson if he wished to speak at this time. Mr. Donelson stated, “Any questions as to the PUD I’ll answer.”

In response to a question by Larry Whiteley, JR Donelson stated that he had put in the plan guidelines that would be very restrictive. Mr. Donelson stated, “I too live in Bixby, and have driven Memorial [Dr.] since it was a 2-lane road. I wanted to make it as restrictive as possible to maintain the integrity of the project.”

Jeff Baldwin expressed concern that the new owners would not be bound by the PUD restrictions of the current application. Erik Enyart stated, “They would be binding on whoever bought the property, but that’s not to say they could not amend it.”

Chair Thomas Holland asked to entertain a Motion. Larry Whiteley made a MOTION to RECOMMEND DENIAL of BCPA-10, PUD 79, and BZ-366. Mr. Whiteley explained his Motion that this was “a little premature” and that there was “a lot of property in Bixby open for people who want to develop [commercial].” Mr. Whiteley stated that the homes behind *Lowes* were built after *Lowes* went in. Mr. Whiteley stated that he believed that someday, someone with deep pockets would [buy up all the subject property lots]. Mr. Whiteley indicated that, if one person were to propose a plan, it would stand a better chance, but that this was “not the time to do it.”

Jeff Baldwin SECONDED the Motion. Roll was called:

ROLL CALL:

AYE: Holland, Whisman, Baldwin, Benjamin, and Whiteley
NAY: None.
ABSTAIN: None.
MOTION CARRIED: 5:0:0

Chair Thomas Holland noted that this area was very identifiable, especially to [those who had lived here a long time]. Mr. Holland stated that it was prime commercial property, and that this may not be the last time this proposal is made.

Larry Whiteley recommended JR Donelson to anyone who had development proposals. Mr. Whiteley stated, "If you try to present yourself, you [might] not get far." Mr. Whiteley stated, "You need someone who knows what to talk about—I highly recommend JR. That's what his profession is."

Chair Thomas Holland stated that he was happy to see so many people interested in these applications. Mr. Holland stated, "The City Councilors need to know you're concerned also, not this Planning Commission, the City Council."

PLATS

No items and no action taken.

OLD BUSINESS:

Chair Thomas Holland asked if there was any Old Business to consider. Erik Enyart stated that he had none. No action taken.

NEW BUSINESS:

Chair Thomas Holland asked if there was any New Business to consider. Erik Enyart stated that he had none. No action taken.

ADJOURNMENT:

There being no further business, Chair Thomas Holland declared the meeting Adjourned at 7:38 PM.

APPROVED BY:

Chair

Date

City Planner/Recording Secretary